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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Revision of Filing Requirements)

CC Docket No. 96-23

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**COMMENTS OF
THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION**

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits these comments on the Notice of Proposed Rulemaking ("Notice") in the above-captioned docket.¹ As explained herein, CompTel supports the FCC's proposal to eliminate the current requirement that local exchange carriers ("LECs") file a list of all billing and collection contracts with the FCC.² However, as an important additional assurance that the Bell Operating Companies ("BOCs") do not discriminate in favor of their interexchange carrier ("IXC") affiliates, the Commission should require each BOC to file with the FCC for public inspection copies of any billing and collection contracts it enters into with any of its affiliates.

CompTel is the principal industry association of competitive telecommunications providers. Its approximately 175 members offer a variety of telecommunications services, many of which, including interexchange services, are dependent upon billing and collection

¹ FCC 96-64 (released February 27, 1996).

² CompTel limits itself to comments on this one aspect of the *Notice*, as well as its own proposal described below concerning the BOCs' billing and collection contracts with their affiliates.

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services provided by the LECs. It is critically important in the wake of the Telecommunications Act of 1996 ("1996 Act"),³ and its opening of the interLATA market to the BOCs, that telecommunications carriers have reasonable assurances that they have access to billing and collection arrangements on the same terms and conditions as the affiliates of the BOCs.

In the *Notice*, the Commission proposes to eliminate the requirement that each LEC file a list of all contracts under which it provides billing and collection services to other telecommunications carriers.⁴ As the basis for this proposal, the FCC observes that the lists are seldom used by the staff or the public.⁵ CompTel agrees that, at present, the filing of the lists furthers no meaningful objective and provides little, if any, public benefit. Accordingly, CompTel supports the elimination of this requirement.

At the same time, however, CompTel believes that the Commission should adopt a requirements to ensure that the competitors of the BOCs' IXC affiliates and other affiliates can assess whether the BOC affiliates are receiving preferential access to non-Title II services. Such services, including billing and collection, are central to the BOC affiliates' provision of telecommunications services, as they are to significant numbers of the BOCs' competitors.⁶ Specifically, in the context of this proceeding, the FCC should require that

³ Pub. L. 104-104 (enacted February 8, 1996).

⁴ *Notice* ¶ 10.

⁵ *Id.*

⁶ *See* Comments of CompTel, CC Docket No. 96-21 (filed March 13, 1996) at 11 (any non-Title II services provided by a BOC to its affiliates, such as billing and collection services or access to information obtained by the BOC as a result of providing local exchange services, should be provided on a non-discriminatory basis).

the BOCs file copies with the FCC of any billing and collection contracts they enter into with their affiliates within 15 days after such agreements take effect. Such filings will enable carriers, especially IXCs, that rely on billing and collection contracts with the BOCs, to obtain reasonable comfort that they are not discriminated against *vis-a-vis* the BOCs' affiliates. This is particularly important as the BOCs now have the authority to provide out-of-region interLATA services⁷ and, ultimately, provided certain preconditions are met, interLATA services originating in-region.⁸

As CompTel explained in its comments in CC Docket No. 96-21, concerning BOC provision of out-of-region interstate, interexchange service, there is a very real potential for the BOCs, which still have market power within their local exchange regions, to discriminate against their affiliates' out-of-region rivals in the provision of local exchange and access service or to confer an unfair advantage on their affiliates' out-of-region interLATA services. One way in which this could occur is if a BOC confers preferential treatment on an IXC affiliate in the billing and collection services that it provides. If carriers competing with the BOCs' affiliates can review BOC-affiliate billing and collection contracts, however, they can demand similar terms and conditions, mitigating the prospects for anticompetitive behavior.⁹

⁷ See 47 U.S.C. § 271(b)(2). See also BOC Provision of Out-of-Region Interstate, Interexchange Services, Notice of Proposed Rulemaking, FCC 96-59, CC Docket No. 96-21 (released February 14, 1996).

⁸ 47 U.S.C. § 271(b)(1).

⁹ The public filing of contracts as a method to help ensure nondiscrimination was adopted in the 1996 Act. Specifically, all contracts between telecommunications carriers and incumbent LECs for interconnection and network elements are to be filed with the state commissions and made publicly available. 47 U.S.C. § 252(h).

While this ability would not eliminate the potential for anticompetitive behavior as a result of billing and collection agreements, it would be an important step in the right direction.

In addition to its procompetitive effects, the obligation to provide nondiscriminatory billing and collection for all interLATA carriers is one of the MFJ's equal access obligations Congress preserved under the 1996 Act.¹⁰ The requirement CompTel proposes herein will be of great benefit to the FCC in enforcing this aspect of the equal access obligations.

CompTel acknowledges that the FCC has detariffed billing and collection and to date declined to exercise its ancillary jurisdiction over such services.¹¹ CompTel does not believe that the filing requirement proposed herein would constitute the exercise of that jurisdiction, any more than the current requirement for LECs to file a list of billing and collection contracts does. However, should a BOC discriminate in favor of an IXC or other affiliate in the provision of billing and collection services, the public filing of the contracts would greatly assist in a prompt determination by the affected carriers and the FCC whether the circumstances were appropriate to invoke that jurisdiction. In the current dynamic environment -- as BOCs retain local exchange market power but begin to provide interLATA services and a significant number of IXCs continue to rely on the incumbent LECs for billing and collection services -- the facilitation of such evaluation would effectively further the public interest in full, fair competition.

¹⁰ See 47 U.S.C. § 251(g); *United States v. AT&T*, 552 F. Supp. 131, 234 (1982) (Appendix B, para.C.2). This obligation to provide billing and collection to all interLATA carriers is contingent upon the BOC offering disconnection of local exchange services upon failure of an IXC's customer to pay for its interexchange calls.

¹¹ See *Detariffing of Billing and Collection Services*, 102 F.C.C. 2d 1150, 1169 (1986) (FCC may invoke ancillary jurisdiction over billing and collection services in appropriate circumstances).

In conclusion, the FCC should adopt its proposal in the *Notice* to eliminate the requirement that the LECs file a list of the billing and collection contracts into which they enter. In addition, however, the FCC should require each BOC to file and make available for public review any billing and collection contracts it enters into with one of its affiliate carriers.

Respectfully submitted,

**THE COMPETITIVE
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April 8, 1996

CERTIFICATE OF SERVICE

I do hereby certify that on this 8th day of April, 1996, true and correct copies of the foregoing *Comments of the Competitive Telecommunications Association* were served, by first class mail, postage prepaid, on:

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A handwritten signature in cursive script, appearing to read "Mustafa H. Khan", is written over a horizontal line.